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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**

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5
6 BRIGHTHOUSE LIFE INSURANCE
7 COMPANY; and BRIGHTHOUSE
8 SECURITIES, LLC,

9 Plaintiff,

10 v.

11 GEORGE SCHMIDT, JR.; LINCOLN
12 FINANCIAL ADVISORS CORPORATION;
13 and LINCOLN FINANCIAL SECURITIES
14 CORPORATION,

15 Defendant.

2:21-cv-01078-JCM-VCF

ORDER

16 Before the court is Lincoln Financial Advisors Corporation's Motion to Extend Time to Serve
17 George Schmidt Jr. (ECF NO. 81).

18 Crossclaimant Lincoln Financial Advisors Corporation (LFA) requests the Court for an order
19 extending the time for LFA to serve crossdefendant George Schmidt Jr.

20 Plaintiffs filed their original Complaint on June 7, 2021. (ECF No. 1). Plaintiffs served LFA with
21 the original Complaint on June 9, 2021. (ECF No. 7). Plaintiffs served Schmidt on July 1, 2021 by serving
22 him at 52 Grant Blvd., Hampton Bays, New York 11946 ("NY Address"). (ECF No. 6). On November
23 9, 2021, Plaintiffs filed their First Amended Complaint. (ECF No. 15). On November 30, 2021, LFA
24 moved to dismiss Plaintiffs' First Amended Complaint. (ECF No. 20). On December 3, 2021, Plaintiffs
25 served Schmidt with the First Amended Complaint at the same NY Address that they had served the
original Complaint. (ECF No. 22). Schmidt's co-tenant and alleged girlfriend, Charlotte Bongiorno
accepted service at the NY Address. On March 31, 2023, the Court granted in part and denied in part

1 LFA's Motion to Dismiss. (ECF No. 52). On May 24, 2023, LFA filed its Answer to the First Amended
2 Complaint and also filed a Counterclaim, Crossclaim, and Third-Party Complaint. (ECF No. 59).

3 LFA filed a crossclaim against Schmidt. Under FRCP 4(m), the deadline to serve Schmidt is
4 August 22, 2023. On July 6, 2023, LFA served Schmidt at the same NY Address that Plaintiffs' served
5 him, and Bongiorno again accepted service for Schmidt. (ECF No. 73). On July 28, 2023, LFA states that
6 Bongiorno left a voicemail for LFA's counsel stating that Schmidt did not receive the summons because
7 he no longer lives at the NY address and is possibly incarcerated. On August 2, 2023, LFA's counsel's
8 Nevada process server located Schmidt in a prison in Lewisburg, Pennsylvania. (ECF NO. 81).

9 Fed. R. Civ. P. 4(m) requires a defendant to be served within 90 days after the complaint is filed.
10 If "the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court
11 must extend the time for service for an appropriate period." Fed. R. Civ. P. 4(m).

12 LFA asserts that additional time is required to effect service, and asks this court to extend the 4(m)
13 deadline up to and including November 20, 2023. (ECF NO. 81 at page 5).

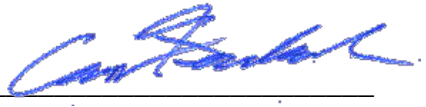
14 Given that LFA has demonstrated "good cause" for its failure to effectuate service, the court will
15 extend the 4(m) deadline, up to and including November 20, 2023. See Fed. R. Civ. P. 4(m).

16 Accordingly,

17 IT IS HEREBY ORDERED that LFA's Motion to Extend Time to Serve George Schmidt Jr. (ECF
18 NO. 81), is GRANTED.

19 IT IS FURTHER ORDERED that the deadline to effect service of process is extended up to and
20 including November 20, 2023 for George Schmidt Jr.

21 DATED this 27th day of September 2023.

22 
23 CAM FERENBACH
24 UNITED STATES MAGISTRATE JUDGE
25